

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL ROBERT BERG,

Plaintiff,

-against-

THE STATE OF NEW YORK, *et al.*,

Defendants.

21-CV-3293 (LTS)

ORDER DIRECTING PAYMENT OF FEE
BALANCE

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, currently incarcerated at Green Haven Correctional Facility, brings this action *pro se*. To proceed with a civil action in this Court, a prisoner must either pay \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee – or, to request authorization to proceed *in forma pauperis* (IFP), that is, without prepayment of fees, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915. If the Court grants a prisoner’s IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner’s account. *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must therefore authorize the Court to withdraw these payments from his account by filing a “prisoner authorization,” which directs the facility where the prisoner is incarcerated to deduct the \$350.00 filing fee¹ from the prisoner’s account in installments and to send to the Court certified copies of the prisoner’s account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b).

After Plaintiff filed his complaint, he mailed to the Court a money order in the amount of \$350.00. Because Plaintiff has not been granted leave to proceed IFP, he must pay the \$52.00

¹ The \$52.00 administrative fee for filing a civil action does not apply to persons granted IFP status under 28 U.S.C. § 1915.

administrative fee. Accordingly, the Court directs Plaintiff, within 30 days, to send a \$52.00 certified check or money order to the following address: United States District Court for the Southern District of New York, Attn: Cashier, 500 Pearl Street, Room 260, NY, NY 10007.

The Court further directs the Cashier's Unit to hold Plaintiff's \$350.00 money order for 30 days from the date of this order. If the Court receives the \$52.00 certified check or money order within this period, the case will be processed in accordance with the procedures of the Clerk's Office. If the Court does not receive a certified check or money order with payment of the \$52.00 balance within the time allowed, then: (1) the \$350 money order that Plaintiff submitted will be returned to him, and (2) the complaint will be dismissed without prejudice to Plaintiff's refiling the complaint, together with the proper fees or an IFP application and prisoner authorization.

If Plaintiff lacks sufficient funds to prepay the \$52.00 administrative fee, Plaintiff may complete the attached IFP application and prisoner authorization and return them to the Court, labeled with docket number 21-CV-3293 (LTS). If the Court grants Plaintiff's IFP application, the \$350.00 filing fee will be deducted from Plaintiff's inmate account in installments, and his \$350.00 money order will be returned to him. 28 U.S.C. § 1915(b)(1).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an

appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: May 5, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge